

C O U R T A N D L E G A L
F O R
J U V E N I L E O F F E N D E R S
G U I D E B O O K

COURT AND LEGAL FOR JUVENILE OFFENDERS GUIDEBOOK

Table of Contents

Administrative Hearings

I.	Hearing Process for Juvenile Offenders	1
II.	Behavioral Accountability Meeting	2
	Behavioral Accountability Meeting Form	3
III.	Apprehension and Detention	4
IV.	Serving of Preliminary Hearing and Allegations	5
V.	Preliminary Hearing and Allegations.....	6-7
	Preliminary Hearing and Allegations Form	8-9
VI.	Placement, Program, and Services Summary	10
	Placement, Program, and Services Summary Form	11
	Rights of Juvenile Offender for Revocation Hearing Form	12
VII.	Revocation Hearing	13-14
VIII.	Request for Administrative Revocation Hearing	15
IX.	Revocation Hearing Checklist.....	16

I. HEARING PROCESS FOR JUVENILE OFFENDERS

An Administrative Hearing process will be used to provide due process for juvenile offenders when they have committed acts which constitute a violation of their conditions of Liberty agreement or result in a restriction in liberty or a change in this agreement.

There are three types of Administrative Hearings:

- The Behavioral Accountability Meeting
- The Preliminary Hearing
- The Revocation Hearing

The Behavioral Accountability Meeting may be used for all juvenile offenders regardless of the level of treatment the court orders at disposition.

The Preliminary Hearing and Revocation Hearing may only be used with juvenile offenders conditionally released to the community from the YRTC.

II. BEHAVIORAL ACCOUNTABILITY MEETING

The Behavioral Accountability Meeting is an informal administrative procedure to review the behavior of any juvenile offender who is not abiding by the Conditions of Liberty Agreement.

- Use of the meeting is at the discretion of the JSO.
- Not required before a Preliminary or Revocation Hearing, recommended usage in graduated sanction process before more formal steps are taken in the revocation process.
- Purpose is to review the behavior of the juvenile offender who is not abiding by the Conditions of Liberty Agreement; review the progress of the case plan; provide support to the JSO; motivate and refocus the juvenile offender; help the juvenile offender change their behavior; review and modify the Conditions of Liberty Agreement; promote community safety.
- Usually conducted in the community.
- Mandatory participants are the juvenile offender, the JSO, and the HHS supervisor.
- Conducted by an impartial, designated person within the Department.
- The JSO will be responsible for informing the juvenile offender of the reason for the meeting, the process of the meeting, the date, time, and place of the meeting. The JSO will also be responsible for inviting other interested parties (including parents, care providers, school personnel, others) to the meeting.
- The HHS supervisor explains the purpose and the process of the meeting. The JSO will provide a brief overview of the case and identify any alleged violations or lack of compliance.
- The juvenile offender is given an opportunity to respond. Others present are allowed to respond and present new information.
- The full group discusses the behaviors and needed adjustments in the juvenile offender's supervision, services, and/or placement.
- The HHS supervisor determines the plan of action, including the following: giving directives to the juvenile offender, the parents, or JSO; changing the Conditions of Liberty Agreement and/or case plan; reclassifying the juvenile offender's supervision level; changing placement or services; applying sanctions; admonishing the juvenile offender; or, deciding to move toward a Revocation Hearing.
- The HHS supervisor completes the Behavioral Accountability Meeting form. The JSO implements the decisions made in the meeting.

**BEHAVIORAL ACCOUNTABILITY MEETING
NEBRASKA DEPARTMENT OF HEALTH AND HUMAN SERVICES**

DATE: _____

BY: _____

RE: _____

PARTICIPATING INDIVIDUALS:

REASON FOR BEHAVIORAL ACCOUNTABILITY MEETING:

RESULTS OF MEETING:

III. APPREHENSION AND DETENTION

- A juvenile offender can be apprehended and detained by the JSO if there is reasonable cause to believe that the juvenile offender has violated or is about to violate a condition of their parole and the juvenile offender will attempt to leave the jurisdiction or will place lives or property in danger.
- HHS-OJS is responsible for the cost of detention for juveniles released from the YRTC's if such detention has been requested or consented by the JSO or it is ordered by the court.
- HHS-OJS is responsible for the cost of detention from the time of apprehension until the court determines placement for juveniles who are direct commitments to the community.
- A shelter can serve as detention when the placement of the juvenile offender is for the purpose of revocation.
- A Preliminary Hearing will be conducted within 72 hours from the time of apprehension and detention.
- JSO should have intent to pursue revocation at the time of apprehension and detention.
- JSO has 48 hours to detain a juvenile offender without a determined plan.
- If a JSO has detained a juvenile for 48 hours, has a Behavior Accountability Meeting conducted while the juvenile is still detained and then a decision is made to pursue a Preliminary Hearing while continuing to hold that juvenile in detention, that 48 hours becomes part of the 72 hours to conduct a Preliminary Hearing.

The key wording is “while the juvenile continues to be detained” and that is where the 72 hour rights of the juvenile have to be followed according to the JSO’s decision to detain due to violations.

JSO can detain for 48 hours, release the juvenile, conduct a Behavior Accountability Meeting, decide that the juvenile is still not going to cooperate, and then make a decision to detain again and proceed with a Preliminary Hearing. The 72 hours would begin on the second detention placement because there was a break in the time the JSO detained the juvenile.

IV. SERVING OF PRELIMINARY HEARING AND ALLEGATIONS

- A Preliminary Hearing is an informal hearing conducted by a Hearing Officer to determine whether there is probable cause to believe the juvenile offender committed acts which violated their Conditions of Liberty Agreement.
- A Preliminary Hearing will occur as soon as practicable and no later than the 72-hour time frame. The Department determines the time and date of the hearing.
- The JSO will collect information about the juvenile offender's behaviors and alleged violations, and gather relevant evidence, including police reports, written documentation submitted by parents, victims, school, and/or service providers.
- The JSO will document the alleged violations of the Conditions of Liberty Agreement on the Notice of Preliminary Hearing and Allegations Form.
- The juvenile offender and parent will be provided written notice of the Preliminary Hearing outlining the alleged violations, the purpose and description of the hearing process, where, and when the hearing will be conducted.
- Notice of the hearing should be given within a sufficient time frame prior to the commencement of the hearing in order for the juvenile offender and parent to understand what the alleged violations and hearing process is about, and to give the parents the opportunity to attend.
- The juvenile offender does not have the right to request a continuance at the Preliminary Hearing.
- If the juvenile offender refuses to sign the Notice of Preliminary Hearing and Allegations Form, the JSO will document the juvenile's refusal on the form.

V. PRELIMINARY HEARING AND ALLEGATIONS

- An impartial Hearing Officer who is an employee of HHS and has not been involved in the case conducts the Preliminary Hearing. The Hearing Officer shall not be the JSO alleging the violations of parole or a witness to the alleged violations.
- The juvenile offender, the parent (when possible), the JSO, witnesses (when necessary), and the Hearing Officer attend the hearing.
- The Hearing Officer reviews the hearing process with the juvenile offender and advises the juvenile offender of their rights:
 1. Notice of the alleged violations before the Preliminary Hearing;
 2. Receipt of Notice of the Preliminary Hearing, its purpose, and the alleged violations;
 3. May present relevant evidence and documentation;
 4. May call witnesses and cross-examine adverse witnesses, unless the Hearing Officer finds good cause for not allowing confrontation;
 5. May make a statement regarding the alleged violations but any statement made may be used against them at a subsequent hearing or in a criminal matter;
 6. Legal counsel will be provided during the Revocation Hearing process.
- The allegations are read and the juvenile offender understands the allegations. The juvenile offender can not be asked by the Hearing Officer to admit, deny, or remain silent on the allegations.
- The Hearing Officer requests the JSO to furnish evidence and documentation to support the allegations. The Hearing Officer may also request testimony from witnesses that have knowledge of the allegations.
- The Hearing Officer should review such information as the case plan and why goals have not been achieved, placement and services provided by the JSO, number of stays at the YRTC, the age of the youth, interested parties that are interested in helping the juvenile succeed, etc.
- The formal rules of evidence will not apply and the Hearing Officer may rely upon any available information. Hearsay is allowed, double hearsay is not allowed. Statements can be used and primary witnesses do not have to attend the hearing.
- Dates need to be specific on the allegations (on or about can be stated). Being off a week will not be acceptable. JSO can request to amend the allegation with the juvenile offender's approval, document the amendment.
- The Hearing Officer documents as much as possible on the Notice of Finding Probable Cause Form. Document the supporting evidence submitted by the JSO.
- The Hearing Officer must ensure that all efforts to succeed with the juvenile in the community have been tried and that all available less-restrictive placements and services have been provided or investigated.
- The determination of Probable Cause can be continued due to events that take place during the hearing. This is to be documented on the Notice of Finding of Probable Cause Form. A new hearing date and time needs to be determined immediately and documented on the form.
- The Hearing Officer will determine whether there is probable cause to believe that the juvenile offender has violated conditions of their Conditions of Liberty Agreement and will issue that decision in writing.
- The decision will either indicate there is not probable cause, dismiss the allegations, and return the juvenile offender to supervision; or, it will indicate there is probable cause that violations have occurred, record recommendations, and where the juvenile offender will be held pending the Revocation Hearing.
- The Hearing Officer will make these findings within 48-hours of the conclusion of the hearing. A copy of the Notice of Finding of Probable Cause will be given to the juvenile offender, the parent, and the JSO.

- Upon the conclusion of the Preliminary Hearing, if revocation is being recommended, the Hearing Officer will advise the juvenile offender of their rights during the Revocation Hearing process by reading the Rights of Juvenile Offender for Revocation Hearing Form. The form must be signed by the Hearing Officer and the juvenile. The JSO will provide the juvenile a copy of the form.

The responsibilities of the juvenile's assigned legal counsel is to discuss the allegations with the juvenile and explain the process of a formal Revocation Hearing, in addition to, explaining the juvenile's rights to waive the formal hearing.

At no time is HHS personnel to discuss with the juvenile the rights to waive. This is the responsibility of their legal counsel. If the juvenile inquires about the waiver process, they are to be informed that this process should be discussed with their legal counsel.

- The Hearing Officer will inform the juvenile offender and the parent as to when and where the Revocation Hearing will be conducted.
- The JSO will arrange to transfer the youth to the YRTC for safekeeping immediately following a finding of probable cause.
- It is best practice to have the Preliminary Hearing completed before the juvenile is returned to the YRTC. There may be emergencies when a juvenile needs to be placed at the YRTC immediately. Approval must be received from the YRTC before a safekeeper placement can be made. The Preliminary Hearing must be conducted immediately on the following day of safekeeper placement. This is not a routine practice when conducting the Preliminary Hearing.

NOTICE OF PRELIMINARY HEARING AND ALLEGATIONS
NEBRASKA DEPARTMENT OF HEALTH AND HUMAN SERVICES

TO: _____ **DATE:** _____

This is to notify you, the above named subject, presently on parole, that a Preliminary Hearing of your case will be held:

on the _____ day of _____, 20 _____, at _____ A.M./P.M.

in _____ at the _____.

You are charged with violating the following conditions of your Parole Agreement or Conditions of Liberty Agreement:

You shall receive notice of the Preliminary Hearing, its purpose, and the alleged violations prior to the commencement of the hearing. If you are being detained for an alleged violation of parole, you shall have a Preliminary Hearing no later than 72 hours of being detained.

An impartial hearing officer shall conduct the hearing and determine whether there is probable cause to believe that you have violated a condition of your parole. Such a decision shall be issued to you in writing. The decision shall either indicate there is not probable cause to believe that you violated the conditions of your parole and dismiss the allegations and return you to parole supervision; or it shall indicate there is probable cause to believe that you have violated a condition of parole and recommend proceeding with the Revocation Hearing.

If you are found guilty of; admit, plead guilty or no contest to any misdemeanor to these allegations, or are bound over to District Court on any felony charge related to these allegations, this will be sufficient to establish probable cause of the purpose of the alleged parole violation. Probable cause may also be determined by the hearing officer based upon adverse information included in police reports, signed statements or testimony of witnesses, victims, law enforcement officers, employers, school officials, and juvenile services officers. The rules of evidence shall not apply and the hearing officer may rely upon any available information. Any admission and/or finding of probable cause may be used against you at a parole revocation hearing.

At the Preliminary Hearing, you may present relevant information, question adverse witnesses and compel such witnesses to appear, and make a statement regarding the alleged parole violations. Any statement that you make may be used against you at a subsequent hearing or in a criminal matter. You may choose to wait and speak to your legal counsel prior to making any statement.

I have received a copy of the Notice of Preliminary Hearing and Allegations form. The Notice of Preliminary Hearing and Allegations has been read and explained to me and a copy delivered to me this _____ day of _____, 20____ at _____ A.M./P.M./ by

_____.

Juvenile Services Officer

Date

Parolee

Date

VI. PLACEMENT, PROGRAM, AND SERVICES SUMMARY

- This form is to be completed by the JSO and is to be part of documentation to be provided to the Hearing Officer at the Preliminary Hearing.
- The JSO must provide information about the juvenile in regards to YRTC history, placement history, provided programs and services, Behavior Accountability Meetings, and alternative placements available.
- In regards to YRTC History, identify dates of commitments, revocations, and releases in a chronological sequence.
- In regards to Placement History, identify specific placements that the juvenile has been at with the dates and outcomes of that placement.
- In regards to Programs and Services, identify all the programs and services that have been provided to the juvenile with the dates and outcomes of these programs and services.
- In regards to Behavior Accountability Meetings, identify when the meetings were held, the sanctions that were placed on the juvenile, any directives that were given, and the outcomes of these meetings.
- In regards to Alternative Placements, Programs, and Services, identify what alternatives have been pursued, the outcomes of the inquiries, reasons why certain placements are or are not available. Show effort in looking at less restrictive alternatives.
- At the end of the summary, the JSO needs to provide a written summary statement on the juvenile's prior conduct while under supervision and recommendation for revocation. This summary needs to be dated, with the JSO's typed name and signature.

Or, a separate written summary statement can be submitted which is addressed to the Revocation Hearing Officer summarizing the juvenile's prior conduct while under supervision and recommendation for revocation. This summary needs to be dated, with the JSO's typed name and signature.

PLACEMENT, PROGRAM AND SERVICES SUMMARY
NEBRASKA DEPARTMENT OF HEALTH AND HUMAN SERVICES

JUVENILE: _____

DATE: _____

COMMITMENT/REVOCATION/RELEASE HISTORY (Identify with Dates):

PLACEMENT HISTORY (Identify specific placement with Dates and Outcomes):

PROVIDED PROGRAMS AND SERVICES (Counseling, Treatment, AA/NA Meetings, Tracker, Day/Evening Reporting, Electronic Monitoring, UA Testing, etc. - Identify with Dates and Outcomes):

BEHAVIOR ACCOUNTABILITY MEETINGS (Identify with Dates, Sanctions, Directives, and Outcomes):

ALTERNATIVE PLACEMENTS, PROGRAMS, AND SERVICES AVAILABLE (Identify what can and can not be pursued and reason why):

RIGHTS OF JUVENILE OFFENDER FOR REVOCATION HEARING

When a juvenile offender is charged with being in violation of a condition of their parole, the juvenile offender is entitled to certain rights during the Revocation Hearing process as follows:

1. Notice of the alleged violations of parole at least 24-hours prior to the Revocation Hearing on the allegations which are listed on the Notice of Preliminary Hearing and Allegations Form;
2. Made aware of the purpose of the hearing which is to determine by the preponderance of the evidence whether the allegations are true, thus determining if parole should be revoked and the juvenile offender be returned to the Youth Rehabilitation and Treatment Center;
3. Made aware of the factual allegations upon which evidence will be offered at the hearing as recorded on the Notice of Finding of Probable Cause Form;
4. A prompt hearing, within 14 days after the Preliminary Hearing;
5. Reasonable continuances granted by the Hearing Officer for the juvenile offender to prepare for the hearing. These requests must be documented and approved by the Hearing Officer;
6. Have parents notified of the hearing and allegations and have the parents attend the hearing;
7. Be represented by legal counsel at the expense of the Department of Health & Human Services unless retained legal counsel is available to the juvenile offender;
8. Compel witnesses to attend, testify on the juvenile offender's behalf, present evidence, and cross-examine witnesses against the juvenile offender;
9. Present a statement on the juvenile offender's behalf, and;
10. After receiving notice of the allegations of a violation of parole, being notified of the possible consequences, being informed of the juvenile offender's rights pertaining to the hearing, and having an opportunity to confer with the juvenile offender's parents or precommitment custodian and legal counsel, if desired, the juvenile offender may waive their right to a hearing and admit to the allegations.

Hearing Officer: _____

Date: _____

Juvenile: _____

Date: _____

VII. REVOCATION HEARING

- The Revocation Hearing is a formal revocation procedure that will ensure due process rights of the juvenile offender and render a decision regarding the revocation of parole, which is in the best interest of the juvenile offender and the community.
- The Revocation Hearing is conducted within 14 days of the Preliminary Hearing.
- The JSO is responsible for preparing a packet of evidence containing documentation that will substantiate the allegations and submit the packet of evidence to the HHS Legal Division and the YRTC.
- HHS Legal Division must receive packets of evidence by Friday at 2:00 PM in order to facilitate a Revocation Hearing the following Thursday.
- The JSO will be responsible for arranging to transport the juvenile offender to the YRTC for safekeeping immediately following the Preliminary Hearing and Finding of Probable Cause for revocation. The juvenile offender needs to be placed at the YRTC for safekeeping no later than the Monday prior to the scheduled hearing.
- HHS Legal Division will submit to the JSO a Notification of Hearing documenting the scheduled hearing date, time, location, and the assigned Public Defender. The JSO is responsible for notifying HHS Legal Division if any party involved in the hearing is participating via telephone conference.
- The Department will provide legal representation for the juvenile offender unless legal counsel has been obtained.
- The juvenile offender will be notified of the Revocation Hearing at least 24-hours prior to the hearing. The notice of the hearing and the allegations involved are part of the Preliminary Hearing process. The appointed Defense Attorney will inform the juvenile offender of the hearing date and time. The JSO will be responsible for informing the parents and other parties involved on behalf of the Department.
- The juvenile offender may waive their rights to a Revocation Hearing and admit to the allegations after due process. This waiver and admission will be in writing and submitted to HHS Legal Division by the Defense Attorney. Upon receipt of this documentation, HHS Legal Division prior to the scheduled hearing will inform the JSO of this decision.
- A Hearing Officer who is an attorney licensed to practice law in the State of Nebraska and may be an employee of the Department or an independent contractor will conduct the Revocation Hearing.
- The Hearing Officer will be responsible for opening the hearing and making introductions. The Hearing Officer will again advise the juvenile offender of their rights, ensure that they have received a copy of the allegations and are aware of the possible consequences. The Hearing Officer will receive the exhibits of allegations into evidence without the need of the JSO to initiate a formal offer of exhibits, either individually or as a package.
- The Hearing Officer will then ask the Defense Attorney if they have had time to review the documents and if there are any objections. The Hearing Officer will ask the JSO to explain the basis for the proposed revocation and at that point, the JSO will be able to simply state this basis in a narrative presentation.
- The Defense Attorney will then be able to cross-examine. The JSO can be questioned about any exhibit but the rules of evidence do not apply. As long as the JSO has a good reason (good reason means that it pertains to the juvenile offender and to the basis for the revocation) to offer the exhibit, it will be received.
- The Hearing Officer will make sure that the Defense Attorney is fair and professional with the cross-examination. The Defense Attorney will be allowed to ask probing questions as long as it is done professionally.
- If a JSO believes that a case is unusual and warrants legal representation and support for the JSO, then the Service Area's Legal Division should be contacted with that request. The JSO should have an articulable reason why a particular case warrants the assignment of an attorney. The request will be reviewed and a determination will be made on providing

representation. The JSO should know their need for representation and submit their request well in advance of the Revocation Hearing.

- Upon the conclusion of the Revocation Hearing, the Hearing Officer prepares a Recommendation and Order summarizing the proceeding and recommending a disposition. The Administrator of the Office of Juvenile Services or their designee will affirm, modify, or reverse the recommended disposition. A decision is to be rendered within 48 hours.
- The Administrator or designee faxes a copy of the final revocation decision to the JSO. The Defense Attorney is responsible for informing the juvenile offender of the revocation findings. The JSO will be responsible for informing the parents on behalf of the Department.
- Once the final order has been signed and a decision made by the Administrator of the Office of Juvenile Services, the Hearing Officer has no jurisdiction to reopen the hearing. OJS cannot appeal its own decision to the District Court.
- If the final decision is not to revoke parole, the JSO will make arrangements to return the juvenile offender to the community within 48 hours of the final findings.
- Any juvenile offender has the right to appeal the finding of revocation according to the Administrative Procedures Act of Nebraska Statute 84-917. This appeal is to be made on their own initiative to the District Court within thirty (30) days of the revocation order.

The District Court the juvenile submits the appeal to is:
Lancaster County District Court
County/City Building
575 South 10th Street
Lincoln, NE. 68508

The Department does not provide the youth with legal counsel during this appeal process. It is the juvenile's responsibility to secure legal representation and submit the appropriate motion. The Legal Division advises that we do not give the juvenile any guidance as to what the appeal should look like or contain for submission.

VIII. REQUEST FOR ADMINISTRATIVE REVOCATION HEARING

NEBRASKA DEPARTMENT OF HEALTH AND HUMAN SERVICES

Date _____

A Preliminary Hearing has established that there is Probable Cause to believe that the following juvenile parolees have violated the terms and conditions of their Conditions of Liberty Agreement. Therefore, the Office of Juvenile Services requests that an Administrative Revocation Hearing be set to revoke the parole of the following juvenile parolees.

Please find enclosed evidence and exhibits that will be submitted at the Administrative Revocation Hearing.

Health and Human Services
Juvenile Services Officer

IX. REVOCATION HEARING CHECKLIST

☐

Compile a packet of evidence supporting the allegations with the following documentation:

1. Request For Administrative Revocation Hearing;
2. the Notice Of Preliminary Hearing And Allegations;
3. the Notice Of Finding Of Probable Cause;
4. the Conditions of Liberty Agreement;
5. changes to the Conditions of Liberty Agreement, if any;
6. Law Enforcement reports;
7. other reports (Behavioral Accountability Meetings, school attendance, work records, tracker reports, day/evening reporting, electronic monitoring, etc.);
8. the Placement, Program, and Services Summary;
9. a signed, written statement addressed to the Hearing Officer from the supervising JSO summarizing the parolee's prior conduct while under supervision **(This can be part of the Placement, Program, and Services Summary)**;
10. any other relevant and pertinent information relied on for the revocation of parole.

☐

Fax the packet of evidence to the following:

HHS Legal Services/220 Building

Attention: Judy Auman

Fax: 402-742-2376

Phone: 402-471-7237

- Fax by 2:00 PM on Friday in order to conduct hearing on the following Thursday.

☐

Fax the packet of evidence to the YRTC'S:

1. YRTC-Geneva: Attention - Mary Stofer
Fax: 402-759-4804

2. YRTC-Kearney: Attention - Officer of the Day
Fax: 308-865-5323

☐

Arrange to transport parolee to the YRTC for safekeeping immediately following the Preliminary Hearing and Finding of Probable Cause for revocation.